

REMARKS

This Amendment, filed in reply to the Office Action dated May 8, 2008, is believed to be fully responsive to each point of objection and rejection raised therein. Accordingly, favorable reconsideration on the merits is respectfully requested.

Claims 1-11 and 15-22 are withdrawn from consideration as being directed to non-elected inventions. Claims 12, 14 and 30-33 are rejected. Claim 14 is canceled herewith without prejudice or disclaimer. Claim 12 is amended herewith solely to improve clarity. Claims 30-32 are amended herewith to correct antecedent basis in view of the cancellation of Claim 14. Upon entry of this amendment, Claims 1-12, 15-22 and 30-33 will be all the claims pending in the application. No new matter is added by way of this amendment. Entry and consideration of this amendment are respectfully requested.

Withdrawn Rejections

1. Applicants thank the Examiner for withdrawal of the rejection of Claims 12 and 14 under 35 U.S.C. 112, second paragraph, as set forth in the Office Action mailed August 8, 2007.

2. Applicants also thank the Examiner for withdrawal of the rejection of Claims 12 and 14 under 35 U.S.C. 103(a) over Dufaure-Gare *et al.*, as set forth in the Office Action mailed August 8, 2007.

The Rejection of Claims 14 and 30-33 Under 35 U.S.C. § 112, first paragraph, is Moot

On page 2 of the Office Action, the Examiner maintains the rejection of Claim 14 under 35 U.S.C. 112, first paragraph, for the same reasons set forth in the Office Action mailed August

8, 2007. The Examiner also rejects Claims 30-33 on the same ground as allegedly depending from Claim 14.

Initially, Applicants note that Claim 14 is canceled herewith, mooting the rejection of Claims 14 and 30-32. Regarding the rejection of Claim 33 as depending from Claim 14, Applicants respectfully point out that Claim 33 as examined does not depend from Claim 14, but rather, only from Claim 12. Accordingly, the rejection of Claim 33 is improper, and should be withdrawn.

Withdrawal of the rejection is respectfully requested.

The Objection to Claim 14 is Moot

On page 7 of the Office Action, the Examiner objects to Claim 14 under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim.

Applicants note that Claim 14 is canceled herewith, mooting the objection.

Withdrawal of the objection is respectfully requested.

Claims 12 and 30-33 are Definite Under 35 U.S.C. §112, Second Paragraph

1. On page 8 of the Office Action, the Examiner rejects Claims 12, 14 and 30-33 under 35 U.S.C. 112, second paragraph, as being indefinite. Specifically, the Examiner asserts that Claim 12 is indefinite in recitation of “the nucleotide sequence represented by SEQ ID NO: 1.” The Examiner asserts that Applicants’ disclosure provides no guidance as to how a nucleotide sequence is “represented by” the SEQ ID NO: 1 sequence. The Examiner suggests amending Claim 12 to recite “comprising the nucleotide sequence of SEQ ID NO: 1.”

Initially, Applicants note that Claim 14 is canceled herewith, mooting the rejection of this claim.

Further, while Applicants maintain that one of ordinary skill in the art would fully understand what Applicants intend by recitation of “the nucleotide sequence represented by SEQ ID NO: 1,” in the interest of advancing prosecution, Applicants herewith amend Claim 12 to recite “the nucleotide sequence of SEQ ID NO:1.” Applicants respectfully submit that the amendment overcomes the rejection.

Withdrawal of the rejection is respectfully requested.

2. On page 9 of the Office Action, the Examiner rejects Claims 30-33 for recitation of “said compound regulates...” The Examiner contends that Claim 12, from which Claims 30-33 ultimately depend, refers to two compounds (*i.e.*, a test compound and a compound identified in the method as enhancing human adiponectin promoter activity), and that it is unclear which compound is referred to in Claims 30-33.

Applicants respectfully disagree with the rejection, since recitation of “said compound” only finds antecedent basis in recitation of “test compound.” Nevertheless, in the interest of advancing prosecution, and without acquiescing in the rejection, Applicants herewith amend Claims 12 and 30-32 to replace recitation of “said compound” with “said test compound.” Applicants respectfully submit that the amendment overcomes the rejection.

Withdrawal of the rejection is respectfully requested.

Claims 12 and 30-33 are Patentable Under 35 U.S.C. § 102(a)

On page 10 of the Office Action, the Examiner rejects Claims 12, 14 and 30-33 under 35 U.S.C. 102(a) as being anticipated by Iwaki *et al.* (*Diabetes*, 2003, 52:1655-1663).

The Examiner asserts that Iwaki *et al.* disclose a method comprising introducing into cells a reporter construct comprising the 5' flanking region of the human adiponectin gene from 908 bases upstream of the human adiponectin transcriptional start site. The Examiner further alleges that Iwaki *et al.* disclose cotransfection of expression vectors encoding human PPAR γ and RXR α , and assaying for the effects of an agent on expression of the reporter gene relative to expression in cells treated with vehicle alone. The Examiner contends that Claim 14 merely recites an intended use of the method of Claim 12, and thus is also anticipated.

The Examiner also alleges that Iwaki *et al.* disclose a method wherein the cells are further transfected with a construct encoding LRE-1, anticipating Claim 30, and a method comprising regulation of the adiponectin promoter by pioglitazone, involving each of PPAR γ , RXR α and LRH-1, anticipating Claims 31-33.

Initially, Applicants note that Claim 14 is canceled herewith, mooting the rejection of this claim.

Further, Applicants note that the priority date of the instant application is prior to the publication date of Iwaki *et al.* Accordingly, Applicants submit herewith an English language translation of Applicants' foreign priority document, namely Japanese Patent Application No. 2002-376589, and a statement verifying that the translation is accurate, antedating the Iwaki *et al.* reference. Applicants respectfully submit that such overcomes the rejection.

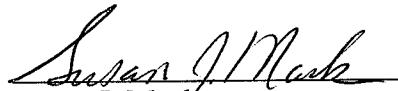
Withdrawal of the rejection is respectfully requested.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



Susan J. Mack
Registration No. 30,951

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON DC SUGHRUE/265550

65565

CUSTOMER NUMBER

Date: August 8, 2008